

REMARKS

Applicants respectfully request reconsideration of the present U.S. Patent application as amended herein. Claim 72 has been amended, no claims have been added or cancelled. Therefore, claims 72-76 are pending.

CLAIM REJECTIONS - 35 U.S.C. § 103

Claims 72, 73 and 76 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,012,051 to Sammon et al. (hereinafter "*Sammon*") in view of U.S. Patent No. 6,131,087 to Luke (hereinafter "*Luke*"). For at least the reasons set forth below, Applicants submit that claims 72, 73 and 76 are not rendered obvious by *Sammon* and *Luke*.

As a preliminary matter, Applicants note that the Office Action mischaracterizes claim language and Applicants are concerned that this mischaracterization has resulted in an unnecessary rejection of the claims. Specifically, the Office Action states:

Sammon does not specifically disclose an intermediary subsystem but discloses its system is applicable to big ticket purchases thus an intermediary subsystem as used in a car dealership would be obvious to be incorporated in Sammon because *use of a dealership as an intermediary is a common business practice*.

See page 3, last paragraph (emphasis added).

The characterization of an intermediary provided in the Office Action is in contrast with the definition of an intermediary provided in the detailed description section of the present application, which states:

An intermediary is a professional customer, such as a bank, credit union, auto broker or other automobile-buying professional, and in some cases the intermediary and the customer may be the same entity, for example when the intermediary is a corporate fleet auto customer buying automobiles on behalf of a corporation. The involvement of an intermediary, such as a bank or credit union, provides assurance to both customers and to sellers that the other party to the transaction is "credible", that is, able to complete the transaction.

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See page 5, line 27 to page 6, line 1. Thus, *the dealership is not an intermediary*. The intermediary generally operates between the buyer and the seller (e.g., a dealership).

Further, the Office Action merely concludes that an intermediary system may be used with big ticket items with no support. Applicants submit that this results in an incomplete and improper rejection of the claims. Nevertheless, Applicants will provide additional shortcomings of the cited references with respect to the claim language.

Claim 72 recites:

...receiving at the intermediary subsystem a customer-defined product configuration description having a general product indication including at least an automobile manufacturer indication and a model indication and a set of optional product attributes, the set including a ranking from among multiple, hierarchical tiers of ranks for each attribute to indicate a discrete level of willingness of the customer to negotiate a modification of the particular attribute;

comparing the customer-defined product configuration to available configurations indicated in an electronic product database stored on a network device to determine whether the customer-defined product configuration is available from a manufacturer and to determine whether a seller having the general product with a set of product attributes at least comparable to the customer-defined set of product attributes, based on the ranking indicated for each attribute...

Thus, Applicants claim use of an intermediary subsystem to receive and compare a customer-defined product description that includes automobile manufacturer and model indication as well as optional product attributes. This information may be used to determine whether the specified product is available from the manufacturer and, if so, determine whether a seller has the requested product or one that is sufficiently close as defined by the product attributes and rankings.

This information may be useful, for example, when a customer requests an automobile that is not available from a manufacturer. For example, a user may request a 2000 Chevrolet Suburban with a manual transmission. If the manufacturer does not provide a Suburban with a manual transmission, the specified product may not be feasible. See specification at page 8, lines

21-28 for discussion of feasibility, which is significantly different than the definition of feasibility (i.e., financial ability) used in the Office Action. This database is accessed via the intermediary subsystem. There is no equivalent of this functionality disclosed in *Sammon* or *Luke* singly or in combination.

Sammon discloses a consumer profiling system that includes a variable degree of relevance. See Abstract. However, *Sammon* does not disclose an intermediary subsystem in which product attributes are compared to determine if the selected options are available from a manufacturer. *Sammon* does not disclose any sort of mechanism to determine whether the selected product options or attributes are available from the manufacturer. Further, *Sammon* discloses that generic options or attributes are requested and does not provide any suggestion of starting with general product information including a manufacturer and/or model.

Luke is cited to teach communication of potential sellers to a buyer. See page 4 of the Office Action. Whether or not this is an accurate characterization, *Luke* does not cure the deficiencies of *Sammon* set forth above. That is, no combination of *Sammon* and *Luke* can teach or suggest the invention as claimed in claim 72. Accordingly, Applicants request that the rejection of claim 72 as being unpatentable over *Sammon* and *Luke* be withdrawn.

In rejecting claim 73, the Office Action takes Official Notice that "it is old and well-known to determine a maximum purchasing capacity for the user in substantial purchases such as cars..." See Office Action at page 5. With regard to financing of major purchases determining a maximum purchasing capacity may arguably be well known. However, with respect to locating a desired product and requesting purchase information such as price, it is not well known to determine maximum purchasing capacity because there may be no binding agreement for purchase. Further, an offer may be made subject to credit approval. Therefore, in accordance with MPEP §2144.03, Applicant hereby traverses the Official Notice and respectfully requests

that the Examiner either (1) cite a prior art reference that supports such a position pursuant to MPEP § 706.02(a); (2) submit an affidavit pursuant to C.F.R. § 1.104(d)(2); or (3) withdraw the obviousness assertion.

Claims 73 and 76 depend from claim 72. Because dependent claims include the limitations of the claims from which they depend, Applicants submit that claims 73 and 76 are not rendered obvious by *Sammon* and *Luke* for at least the reasons set forth above.

Claims 74 and 75 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sammon* in view of *Luke* as applied to claim 72, and further in view of U.S. Patent No. 5,689,652 to Lupien et al. (hereinafter "*Lupien*"). For at least the reasons set forth below, Applicants submit that claims 74 and 75 are not rendered obvious by *Sammon*, *Luke* and *Lupien*.

Claims 74 and 75 depend from claim 72. As discussed above, no combination of *Sammon* and *Luke* can teach or suggest the invention as claimed in claim 72. *Lupien* is cited to teach using numeric values to indicate user satisfaction in evaluation of products. In contrast to user satisfaction, claims 74 and 75 recite willingness to negotiate. Therefore, without adopting the characterization provided in the Office Action, even if this characterization is accurate, it does not cure the deficiencies of *Sammon* and *Luke* set forth above and does not correspond to the claim limitations. Therefore, no combination of *Sammon*, *Luke* and *Lupien* can teach or suggest the invention as claimed in claims 74 and 75. Accordingly, Applicants request that the rejection of claims 74 and 75 as being unpatentable over *Sammon*, *Luke* and *Lupien* be withdrawn.

CONCLUSION


For at least the foregoing reasons, Applicant submits that the rejections of the claims have been overcome herein, placing all pending claims in condition for allowance. Such action

is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the above-referenced application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
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